

FILED
U.S. DISTRICT COURT
IN THE UNITED STATES DISTRICT COURT
2017 MAR -1 5:13 PM
DISTRICT OF UTAH

LHF PRODUCTIONS, INC.

Plaintiff,

vs.

DOES 1-28,

Defendants.

Civil Action No. 2:16-cv-01238

Magistrate Judge Dustin B. Pead

MOTION TO QUASH

OR MODIFY SUBPOENA

MOTION TO QUASH OR MODIFY SUBPOENA

I received a letter from my ISP regarding a subpoena identifying me as one of 28 Doe Defendants, which included a copy of the Order Granting Plaintiff's Application for Leave to Seek Expedited Discovery.

I hereby submit that, based on a review of these types of cases from publically available sources, the discovery will be followed by further law suits or letters demanding monies as settlement. This is the reason I am filing this motion, and for this reason, I respectfully request that I be allowed to do so without revealing my personally identifying information.

INTRODUCTION

1. The allegation is of copyright infringement by download of a movie (London Has Fallen) several months ago using a Peer 2 Peer (P2P) network.
2. The Plaintiffs allege that they have been able to reliably ascertain the 'pattern' of infringing activity based on surveillance and monitoring of the Doe IP address on P2P networks for other copyrighted material. In their own words,

“In addition, activity of each IP address of Defendants has also been observed and associated with significant infringing activity and associated with the exchange of other titles on peer-to-peer networks” (Complaint for Copyright Infringement and Jury Demand).

3. A review of current cases on pacer.gov for the United States District Court (District of Utah) on February 28, 2017 reveals twenty one (21) separate cases that have LHF Productions, Inc. listed as Plaintiffs. Similarly, this pattern of filing cases against hundreds and possibly thousands is noted in various other US States. This pattern of filing cases with Doe Defendants points to a strategy by the Plaintiffs that would hopefully be apparent to the Court.

ARGUMENT

I respectfully submit that the subpoena be quashed per Federal Rule of Civil Procedures 45 (c), (d), (e), and (g) (Effective 12/1/13) which states that (A) *When Required*. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) Fails to allow a reasonable time to comply

I respectfully submit that the letter from my ISP (Comcast) is dated January 31, 2017 and they send a minimal set of documents by USPS (letter stamped by US postal service February 1, 2017, received in Utah on February 3, 2017) and the following week by UPS courier service.

After the initial shock of receiving such a letter in the mail, it took me some time to digest and understand the situation. The alleged incident of copyright infringement is supposed to have occurred several months ago and thus recall and memory is an issue.

As there was not much detail in the documents sent by my ISP, I had to spend significant time and effort on the internet learning about these cases. Furthermore, I had to register and download the original complaint from pacer.gov and also follow the course of several cases currently in this court.

Finally, the letter from my ISP states that if I do not file a motion to quash or vacate the subpoena by March 2, 2017, otherwise my identity will be revealed to the Plaintiff.

Though I realize that the 'reasonable time to comply' likely applies to my ISP, I respectfully submit that I have not had enough time to research the case, understand the ramifications of either course of action (do nothing and let the ISP divulge my identity or file a motion to quash the subpoena or hire an attorney among the options). **For this reason, I request that the subpoena as it pertains to me (one of the 28 Doe Defendants) be quashed.**

(ii) Subjects a person to undue burden

As noted above, the alleged incident is supposed to have occurred several months ago in 2016. During the alleged time of the download, I was out of Utah (this can be proven with airline ticket receipts) and thus I could not have downloaded the movie in question. There were guests

in our home at that time; however, due to the sensitive nature of relationships, it is not possible to ascertain whether any of them had downloaded the movie in question.

In the original complaint from the Plaintiff, it is alleged that the Doe defendants have conspired to infringe on the copyright of the Plaintiff and may have attained benefits of value from this scheme. This is not true.

Though similar lawsuits have been summarily dismissed, defendants in other cases are reported to have been contacted by the Plaintiff's lawyers for settlement amounts in the hundreds to thousands of dollars.

With these, I respectfully submit that the subpoena places an undue burden on this Doe Defendant. For this reason, I respectfully request that the subpoena be quashed.

(iii) Exceeding authority by monitoring my internet activity

Based on the paragraphs above and in reviewing the original complaint, it is apparent that the Plaintiff has performed surveillance and monitoring of my IP address on P2P Networks. They then claim "In addition, activity of each IP address of Defendants has also been observed and associated with significant infringing activity and associated with the exchange of *other titles* on peer-to-peer networks". This clearly violates my privacy by the Plaintiff as they have no right or authority to monitor my internet activity for "other titles" to which they do not have a copyright.

For this reason of the Plaintiff exceeding their authority in reviewing my internet activity, I respectfully request that the subpoena be quashed.

In summary, for all the arguments set forth in this motion, I pray that the Court quash the subpoena and that there be voluntary dismissal without prejudice for this Doe Defendant. I also pray that I be allowed to maintain anonymity as even identifying which Doe Defendant I am (from 1 through 28) would allow the Plaintiff to potentially identify me and subject me to further undue burden.

Dated: February 28, 2017

Respectfully submitted,

pseudonym: GP

/s/John or Jane Doe

John or Jane Doe

Pro se